

Before the
Federal Communications Commission
Washington, D.C. 20554

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FEB 10 2000
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

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Establishment of a Class A

)

Television Service

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MM Docket No. 00-10

MM Docket No. 99-292

RM-9260

**COMMENTS OF
KSLS, INC.**

KSLS, Inc. ("KSLS"), pursuant to Section 1.415 of the Commission's Rules, hereby submits these Comments in the above-captioned proceeding. KSLS is the licensee of Station KSCI(TV), Channel 18, Long Beach, California, a full service commercial foreign-language television station.¹ Specifically, KSLS, files these Comments expressing its concern regarding the designation of Class A primary status to low power television (LPTV) stations. KSLS realizes that Congress enacted the Community Broadcasters Protection Act of 1999 directing the FCC to create rules establishing a Class A license for LPTV before the Commission could receive comments from broadcasters on the need for Class A LPTV service. KSLS maintains that the designation of Class A status to LPTV stations could interfere with the channel allocations for full-service television stations in the digital television (DTV) spectrum. KSLS strongly encourages the Commission to limit the implementation of Class A LPTV stations until the DTV problems are resolved. The Commission should take all necessary steps in this proceeding to insure that the designation of Class A status to LPTV stations protects the ability of full service stations to transition smoothly to DTV.

¹ KSCI(TV)'s program schedule consists primarily of Asian-language programming. KSCI(TV)'s present transmitter location is on the Sunset Ridge Electronic Site but KSLS, Inc. holds construction permits to build both NTSC and DTV transmission facilities for KSCI(TV) at Mount Wilson.

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A. The FCC Should Finalize the Transition of Full Service Stations to DTV Before Providing LPTV Stations with Class A Status

The Commission's underlying goal during the transition to digital television is to advance spectrum efficiency and insure the rapid recovery of spectrum by fostering the swift development of the DTV service. In keeping with the Commission's goals, KSLS, Inc. urges the Commission to expedite resolution of the DTV allocation issues and insure protection of the full-service stations within the DTV spectrum before designating Class A status to LPTV stations.

The need for Commission resolution of the DTV allocation problems is best exemplified by the allocation conflicts in the Los Angeles area. Los Angeles is an extremely congested area and the Commission has had to allocate DTV channels that do not meet all the separation requirements. Currently, there are seven DTV channels in Los Angeles assigned outside the core: KABC-DT on Channel 53; KCET-DT on Channel 59; KCBS-DT on Channel 60; KSCI(DT) on Channel 61; KTTV-DT on Channel 65; KCOP-DT on Channel 66; and KRCA-DT on Channel 68. At least two of these stations, possibly three, do not have a core NTSC channel to move back to at the end of the transition period. KSCI is one such station. KSCI(TV)'s present DTV allocation is Channel 61 located outside the core.. KSCI's NTSC channel is Channel 18 which is also assigned to KUSI-DT in San Diego, California. In June of 1997, KSLS petitioned against the allocation of KSCI's NTSC Channel 18 to KUSI(TV) for use in the digital spectrum. The petition was denied despite the fact that (a) both of KUSI's allocations are within the core spectrum and (b) KSCI's DTV allotment (Channel 61) is outside the core spectrum. If the Commission designated Channel 51 as KUSI's final DTV channel, KSCI would be able to

use its present NTSC allotment on Channel 18 as its DTV allotment without interference to either KSCI or KUSI in San Diego. The foregoing displacement situation is effecting many full-service television stations around the country which are searching for a place in the core spectrum.

KSLS has several suggestions for resolving the displacement issues and insuring that full service stations find a place in the core . First, the Commission should require all stations with both NTSC and DTV channels in the core to immediately specify their final DTV channel.² Upon specification of that final DTV channel, the FCC should allocate a final DTV channel to stations that either (a) have interference problems or (b) exist outside the core and need to find placement within the core. In the interim, the FCC should restrict the designation of Class A status to LPTV stations and freeze all LPTV applications for Class A status until completion of the DTV allocations. Once all present full-power stations have a final DTV allocation, the unused spectrum could be allocated to either additional full-power DTV services or made available for LPTV stations

Historically, the LPTV service was designed as a secondary service to utilize frequencies that were unusable by full-power stations due to separation requirements or rough terrain. The notion that the LPTVs, a secondary service up until two months ago, should be given primary status on par with full-service television stations is antithetical to the FCC's goals for a smooth DTV transition and efficient use of the spectrum. On the contrary, it is inefficient use of spectrum to allow a small LPTV station to prevent a full-power station from providing programming to a much larger audience. As a reminder, the full power stations were allocated to

communities to provide broadcast service in the public interest. There is no such allocation system for LPTV stations. Moreover, the LPTV stations should not be given Class A status until completion of the DTV allocations for full-service television stations because the Class A LPTV stations could increase the likelihood of interference with full service DTV stations.

B. KSLS Comments on Specific Class LPTV Rule Making Provisions

KSLS now addresses specific issues within the Class A LPTV proceeding. The Commission seeks comment on whether LPTV stations should be able to apply for Class A status only within the time frame of the CBPA or should the FCC continue to accept applications after the deadline. In keeping with KSLS's desire to have the DTV allocations for full-service stations resolved prior to the designation of Class A status to LPTV stations, the FCC should not accept any more Class A applications after the expiration date provided in the statute.

The Commission also seeks comment on whether to allocate a paired DTV channel to TV translator and LPTV stations (whether they are "Class A" LPTVs or not). The proposal creates an obvious inequity to full-service permittees that received their initial station construction permit after the April 3, 1997, the date used to define eligibility for paired DTV licenses. These full service stations are not entitled to a pairing. Once again, if the proposal to allocate a paired DTV channel to translators and LPTVs is accepted, a secondary service would receive two allotments in the spectrum when some primary stations have only one. KSLS strongly urges the Commission to refrain from allocating a paired DTV channel to a secondary service until all final full-power allocations are made relying on the basic concept of fairness to the full service stations. If there are any vacant channels remaining at the end of the full-power transition period,

the licensees of these secondary services could apply for them. If these Class A applications must be given priority, there should at least be a commitment on behalf of the translators, LPTV and Class A LPTV licensees to simulcast the same program content as the NTSC channel.

KSLS wholeheartedly supports the FCC's interpretation of (f)(7)(A) of the CBPA which states that a Class A license or a modification of license should not be granted when it will cause interference with any station "transmitting in analog format." KSLS agrees that the phrase "transmitting in analog format" includes both NTSC facilities currently operating and construction permits granted for those facilities. Class A LPTVs must protect both NTSC facilities and construction permits granted to licensees for such facilities.

In addition to the foregoing proposals, KSLS expresses concern that a Class A LPTV would not have to protect a "new" full-power DTV service. KSLS wants an assurance from the Commission that "new" does not refer to present broadcaster who will be required to change to a new DTV channel. The term "new" in the context of the rule making should only apply to additional DTV allocations which Class A LPTVs would not have to protect. Class A LPTVs must protect the current DTV licensees who are seeking, or will seek a channel change.

KSLS also requests clarification of the Commission's interpretation of the term "maximization." Maximization is a term that should include maximization of power as well as any change in site location. In keeping with the goal to use the DTV spectrum efficiently, a DTV station should have the ability to replicate the signal of its present grade B contour and to be competitive with other DTV stations in the market. However, a station that does not have a final DTV channel allocation cannot file an application to maximize to its fullest power level. KSLS

need not remind the Commission that these stations already have to rebuild at the end of the DTV transition. These stations should not be penalized again with the possibility of having to operate at less than the maximum power or operate over less than its maximum coverage area. The maximization problems of these stations are yet another reason KSLs urges the Commission to immediately finish the DTV allocations.

C. Conclusion

For the foregoing reasons, KSLs strongly encourages the FCC to limit designation of Class A status to LPTV stations. All full service DTV allocation issues should be resolved prior to designation of Class A status to the low power service.

Respectfully submitted,

KSLs, Inc.

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Director of Engineering

Dated: February 10, 2000